

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 10-1760 JB

MICHAEL HARMON,

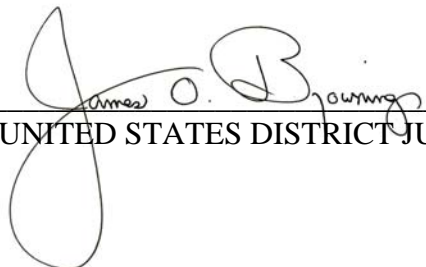
Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on: (i) Attorney Kenneth A. Gleria's Motion to Withdraw as Counsel, filed August 31, 2011 (Doc. 81)("Motion"); and (ii) the Defendant's Request for Removal of Counsel (dated August 29, 2011), filed September 2, 2011 (Doc. 84)("Request"). The Court held a hearing on October 5, 2011. In his Motion, Kenneth A. Gleria, Defendant Michael Harmon's counsel, moves the Court for an order allowing him to withdraw as counsel for Harmon. See Motion at 1. As grounds for his Motion, Mr. Gleria states that communication between himself and Harmon is insufficient to establish a working attorney-client relationship. See Motion ¶ 2, at 1. He relates that, in his August 29, 2011 meeting with Harmon, Harmon stated that he wanted another attorney to represent him in this matter. See Motion ¶ 2, at 1. Mr. Gleria also relates that in his August 31, 2011 conversation with Harmon, Harmon contacted him by telephone and stated that he had mailed a letter to the Court requesting new counsel, and stated unambiguously that he does not want Mr. Gleria to represent him in this matter. See Motion ¶ 2, at 1-2. Consequently, Mr. Gleria states that communication between himself and Harmon regarding the substance of the case has ceased. See Motion ¶ 2, at 2. Despite his best efforts to communicate with Harmon, Mr. Gleria believes that the obstacles to communication with Harmon are substantial and will be difficult to

overcome to establish a working-attorney client relationship. In his Request, Harmon also seeks removal of Mr. Gleria. See Request at 1. He states that he is “not satisfied with counsel and his decisions in my interest.” Request at 1. He further relates: “We do not have a meeting of the minds.” Request at 1. Plaintiff United States of America takes no position on this request. See Transcript of Hearing at 3:13-15 (taken October 5, 2011)(“Tr.”)(Braun).¹ Because both Harmon and Mr. Gleria agree to the appointment of new counsel, and because communication between Harmon and Mr. Gleria has broken down, see United States v. Beers, 189 F.3d 1297, 1302 (10th Cir. 1999), the Court will grant the Motion and the Request.

IT IS ORDERED that: (i) Attorney Kenneth A. Gleria’s Motion to Withdraw as Counsel, filed August 31, 2011 (Doc. 81), is granted; and (ii) the Defendant’s Request for Removal of Counsel (dated August 29, 2011), filed September 2, 2011 (Doc. 84), is granted. The Court removes Kenneth A. Gleria as counsel for the case and orders the clerk’s office to appoint new counsel for Defendant Michael Harmon.



UNITED STATES DISTRICT JUDGE

Counsel:

Kenneth J. Gonzales
United States Attorney
James R.W. Braun
Sean J. Sullivan
Assistant United States Attorneys
Albuquerque, New Mexico

Attorneys for the Plaintiff

¹The Court’s citations to the transcript of the hearing refers to the court reporter’s original, unedited version. Any final transcript may contain slightly different page and/or line numbers.

Kenneth Gleria
Albuquerque, New Mexico

Attorney for the Defendant